# Senate

General Assembly

**File No. 48**

***February Session, 2012***

Substitute Senate Bill No. 228

*Senate, March 20, 2012*

The Committee on Energy and Technology reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## *AN ACT CONCERNING TECHNICAL REVISIONS TO ENERGY AND TECHNOLOGY STATUTES.*

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 16-19p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) If the **[**department**]** authority approves a decommissioning financing plan under section 16-19o, it shall, at least every five years until the facility's closing and at least annually after the closing, review the financing plan to assess its adequacy. If changed circumstances make a more frequent review desirable or if the licensee requests it, the **[**department**]** authority may review the plan after a shorter time interval. The review shall include, but not be limited to, the following considerations: (1) The estimated date of closing the nuclear power generating facility; (2) the estimated cost of decommissioning; (3) the reasonableness of the method selected for cost estimate purposes; and (4) the adequacy of plans for financing the decommissioning and any

shortfall resulting from a premature closing.

(b) The [department] authority, after conducting a review under subsection (a) of this section, may, after a hearing, order such changes in the decommissioning financing plan as it deems necessary to make the plan comply with the provisions of subsection (b) of section 16-19o.

Sec. 2. Section 16-19v of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Construction costs of the Seabrook 1 nuclear power generating facility in excess of the sum of the following amounts shall not be made part of the rate base or otherwise included in the rates approved by the [department] authority and charged by a public service company, as defined in section 16-1:

(1) Four billion seven hundred million dollars;

(2) Any increase in the costs of labor and materials to the extent such increase is due to inflation which exceeds ten per cent per year;

(3) Any increase in financing costs to the extent such increase is due to an increase in the weighted average rate for the allowance for funds used during construction above ten and one-quarter per cent per year for the years following calendar year 1983;

(4) Any costs directly attributable to new regulations adopted by the Nuclear Regulatory Commission after July 1, 1984; [,] and

(5) Any costs due to unforeseeable and unavoidable labor stoppages.

(b) Nothing in this section shall be construed to limit the [department's authority] authority's power under section 16-19e to review all construction costs of such facility up to the sum of such amounts and to disallow any such costs which are not prudently incurred.

Sec. 3. Section 16-19hh of the general statutes is repealed and the

following is substituted in lieu thereof (*Effective from passage*):

(a) In order to encourage economic development and maintain the state's manufacturing base, the **[**department**]** authority shall: (1) Continue to implement flexible pricing when it determines that such pricing is appropriate; (2) require each water and gas company, as defined in section 16-1, which serves manufacturing customers and has not yet done so, to propose, in its first application for an amendment of rates filed pursuant to section 16-19 on or after October 1, 1993, flexible and innovative rates which promote manufacturing, which rates may include, but not be limited to, economic development, business retention, competitive energy, interruptible, conservation and time of use rates; and (3) require each water and gas company, as defined in said section 16-1, to support and promote the Connecticut manufacturing program for energy technology.

(b) Notwithstanding the provisions of subsection (a) of this section, an electric company or electric distribution company that (1) renegotiates, extends or renews any special contract for electric service that is in effect on July 1, 2000, and has a term that expires prior to July 1, 2000, for a term that extends beyond June 30, 2000, or (2) enters into any new special contracts for electric service, shall provide in any such renegotiated, extended, renewed or new contract for the collection of the assessment required under section 16-245g as provided in said section 16-245g and for the collection of the charge required in section 16-245*l* as provided in said section 16-245*l* provided no such contract shall shift costs to other ratepayers.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, a customer that is (1) an existing or proposed manufacturing plant that will add or create one hundred or more jobs and that will demand at least fifty kilowatts of additional load through the construction or expansion of manufacturing facilities, or (2) an existing manufacturing plant located in a distressed municipality, as defined in section 32-9p, that is located in an enterprise corridor and employing not less than two hundred persons may be exempted from payment of

the competitive transition assessment required under section 16-245g. A customer meeting the requirements of subdivision (1) of this subsection may apply to the **[**department**]** authority for an exemption from the payment of the competitive transition assessment that relate to the new or incremental load created by such construction or expansion. A customer meeting the requirements of subdivision (2) of this subsection may apply to the **[**department**]** authority for an exemption from the payment of the competitive transition assessment. The **[**department**]** authority shall hold a hearing on any such application, and if approved, direct the electric distribution company to refrain from collecting a specific portion of the competitive transition assessment from such customer. The **[**department**]** authority may adopt regulations pursuant to chapter 54 to implement the provisions of this section.

Sec. 4. Section 16-243e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Except as provided in subsection (b) of this section, any electric company, as defined in section 16-1, that, prior to July 6, 2007, purchased electricity generated by a resources recovery facility, as defined in section 22a-260, owned by, or operated by or for the benefit of, a municipality or municipalities, pursuant to a contract with the owner of such facility requiring the electric company to purchase all of the electricity generated at such facility from waste that originated in the franchise area of the electric company, for a period beginning on the date that the facility began generating electricity and having a duration of not less than twenty years, at the same rate that the electric company charges the municipality or municipalities for electricity, shall pay the rate set forth in the contract or, for contracts entered into and approved during calendar year 1999, the rate established by the **[**department**]** authority, for the remaining period of the contract. No electric company or electric distribution company shall be required to enter into such a contract on or after July 6, 2007.

(b) Not later than October 1, 2000, and annually thereafter, the

[department] authority shall calculate the difference between the amount paid by the successor electric distribution company pursuant to each such contract in effect during the preceding fiscal year for electricity generated at the facility from waste that originated within such franchise area and the amount that would have been paid had the company been obligated to pay the rate in effect during calendar year 1999, as determined by the [department] authority. The difference, if positive, shall be recovered through the systems benefits charge established under section 16-245*l* and remitted to the regional resource recovery authority acting on behalf of member municipalities.

Sec. 5. Section 16-243*l* of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

On or before January 1, 2006, each electric distribution company shall institute a program to rebate to its customers with projects that use natural gas, which projects are customer-side distributed resources, as defined in section 16-1, an amount equivalent to the customer's retail delivery charge for transporting natural gas from the customer's local gas company to such customer's project of customer-side distributed resources. Costs of such a rebate shall be recoverable by the electric distribution company from the federally mandated congestion charges, as defined in section 16-1. The [department] authority may adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

Sec. 6. Subdivision (20) of subsection (a) of section 16-245e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(20) "Economic recovery revenue bonds" means rate reduction bonds issued to fund the economic recovery transfer, the costs of issuance, credit enhancements, operating expenses and such other costs as the finance authority deems necessary or advisable, and which shall be payable from competitive transition assessment charges that replace the competitive transition assessment charges funding stranded costs. [and that are offset in part by decreases to the charges

funding the Energy Conservation and Load Management Fund, as provided in subdivision (3) of subsection (a) of section 16-245m.**]**

Sec. 7. Subsection (b) of section 16-245f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Prior to September 1, 2010, each electric distribution company shall submit to the authority an application for a financing order with respect to funding the economic recovery transfer through the issuance of economic recovery revenue bonds. The authority shall hold a hearing for each such electric distribution company to determine the amount necessary to fund the economic recovery transfer, the payment of economic recovery revenue bonds, costs of issuance, credit enhancements and operating expenses for the economic recovery revenue bonds. Such amount as determined by the authority shall constitute transition property. The authority shall allocate the responsibility for the funding of the economic recovery transfer and the expenses of the economic recovery revenue bonds equitably between the electric distribution companies. Such allocation may provide that the respective charges payable by the customers of each electric distribution company may commence on different dates and that such rates may vary over the period the economic recovery revenue bonds and the related operating expenses are being paid, provided (1) such charges are equitably allocated to the customers of each electric distribution company, and (2) the authority determines that, over such period, and taking into account the timing of charges, the charges on a kilowatt hour basis assessed to the customers of the respective electric distribution companies have substantially the same present value after consultation with the finance authority as to the discount rate to be used in determining such present value. Any hearing with respect to a financing order in respect to the economic recovery transfer and the issuance of economic recovery revenue bonds shall not be a contested case, as defined in section 4-166. The authority shall issue a financing order in respect to the economic recovery revenue bonds for each electric distribution company on or

before October 1, 2010. In such financing order, the authority shall determine the competitive transition assessment in respect of the economic recovery revenue bonds, which shall not be assessed prior to June 30, 2011, unless the authority sets an earlier date in the financing order. **[**A component of the competitive transition assessment in respect of the economic recovery revenue bonds shall be equal to the decreases to the charges provided in subdivision (3) of subsection (a) of section 16-245m funding the Energy Conservation and Load Management Fund. The portion of the competitive transition assessment in respect to the economic recovery revenue bonds equal to such decreases shall be assessed and collected from the date such charges are reduced pursuant to the financing order.**]** The authority may provide in such financing order that money from other sources, including proceeds of charges assessed customers of municipal electric companies, transferred to the trustee under the indenture and intended to be used to pay debt service on the bonds shall be taken into account in making adjustments to the competitive transition assessment pursuant to subdivision (2) of subsection (b) of section 16-245i if such payment is not made from General Fund revenues and would not adversely affect the tax status or credit rating of economic recovery revenue bonds.

Sec. 8. Section 16-247a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Due to the following: Affordable, high quality telecommunications services that meet the needs of individuals and businesses in the state are necessary and vital to the welfare and development of our society; the efficient provision of modern telecommunications services by multiple providers will promote economic development in the state; expanded employment opportunities for residents of the state in the provision of telecommunications services benefit the society and economy of the state; and advanced telecommunications services enhance the delivery of services by public and not-for-profit institutions, it is, therefore, the goal of the state to (1) ensure the universal availability and accessibility

of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service. The **[**department**]** authority shall implement the provisions of this section, sections 16-1, 16-18a, 16-19, 16-19e, 16-22, 16-247b, 16-247c, 16-247e to 16-247i, inclusive, as amended by this act, and 16-247k , as amended by this act, and subsection (e) of section 16-331 in accordance with these goals.

(b) As used in sections 16-247a to 16-247c, inclusive, 16-247e to 16-247i, inclusive, as amended by this act, 16-247k, as amended by this act, and sections 16-247m to 16-247r, inclusive:

(1) "Affiliate" means a person, firm or corporation which, with another person, firm or corporation, is under the common control of the same parent firm or corporation.

(2) "Competitive service" means (A) a telecommunications service deemed competitive in accordance with the provisions of section 16-247f, (B) a telecommunications service reclassified by the **[**department**]** authority as competitive in accordance with the provisions of section 16-247f, or (C) a new telecommunications service provided under a competitive service tariff accepted by the **[**department**]** authority, in accordance with the provisions of section 16-247f, provided the **[**department**]** authority has not subsequently reclassified the service set forth in subparagraph (A), (B) or (C) of this

subdivision as noncompetitive pursuant to section 16-247f.

(3) "Emerging competitive service" means (A) a telecommunications service reclassified as emerging competitive in accordance with the provisions of section 16-247f, or (B) a new telecommunications service provided under an emerging competitive service tariff accepted by the **[**department**]** authority, in accordance with the provisions of section 16-247f, or of a plan for an alternative form of regulation approved pursuant to section 16-247k, as amended by this act, provided the **[**department**]** authority has not subsequently reclassified the service set forth in subparagraph (A) or (B) of this subdivision as competitive or noncompetitive pursuant to section 16-247f.

(4) "Noncompetitive service" means (A) a telecommunications service deemed noncompetitive in accordance with the provisions of section 16-247f, (B) a telecommunications service reclassified by the **[**department**]** authority as noncompetitive in accordance with the provisions of section 16-247f, or (C) a new telecommunications service provided under a noncompetitive service tariff accepted by the **[**department**]** authority, in accordance with the provisions of section 16-19, and any applicable regulations, or of a plan for an alternative form of regulation approved pursuant to section 16-247k, as amended by this act, provided the **[**department**]** authority has not subsequently reclassified the service set forth in subparagraph (A), (B) or (C) of this subdivision as competitive or emerging competitive pursuant to section 16-247f.

(5) "Private telecommunications service" means any telecommunications service which is not provided for public hire as a common carrier service and is utilized solely for the telecommunications needs of the person that controls such service and any subsidiary or affiliate thereof, except for telecommunications service which enables two entities other than such person, subsidiary or affiliate to communicate with each other.

(6) "Telecommunications service" means any transmission in one or more geographic areas (A) between or among points specified by the

user, (B) of information of the user's choosing, (C) without change in the form or content of the information as sent and received, (D) by means of electromagnetic transmission, including but not limited to, fiber optics, microwave and satellite, (E) with or without benefit of any closed transmission medium and (F) including all instrumentalities, facilities, apparatus and services, except customer premises equipment, which are used for the collection, storage, forwarding, switching and delivery of such information and are essential to the transmission.

(7) "Network elements" means "network elements", as defined in 47 USC 153(a)(29).

Sec. 9. Section 16-247i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Not later than January 1, 2007, and annually thereafter, the **[**department**]** authority shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to energy and technology on the status of telecommunications service and regulation in the state of Connecticut. Such report shall include: (1) An analysis of universal service and any changes therein; (2) an analysis of the impact, if any, of competition in telecommunications markets on the work force of the state and employment opportunities in the telecommunications industry in the state; (3) an analysis of the level of regulation which the public interest requires; (4) the status of implementing the provisions of sections 16-247a to 16-247c, inclusive, 16-247e to 16-247h, inclusive, 16-247k, as amended by this act, and this section, including achieving each of the objectives of the goals set forth in section 16-247a; (5) the status of the development of competition for all telecommunications services; (6) the status of the deployment of telecommunications infrastructure in the state; and (7) the status of the implementation of sections 16-247f and 16-247i , as amended by this act, and section 3 of public act 06-144.

(b) In compiling the information for this report, the **[**department**]** authority shall require, among other things, each telephone company

to provide to the [department] authority annually: (1) Its aggregate number of telephone access lines in service, not including resold lines or other wholesale lines; (2) the annual change in such telephone company's access lines over the preceding five years; (3) the number of active wholesale customers served by the telephone company; (4) the nature of the wholesale services provided; (5) the number of wholesale service requests; (6) the impact of competition on the work force of the telephone company; (7) a general discussion of the state of the industry, industry trends, and competitive alternatives available in the market, including, but not limited to, technological changes affecting the market; (8) the number of competitive local exchange carriers; and (9) how long it takes the company to respond to a wholesale service request.

Sec. 10. Section 16-247k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The [department] authority may, and is encouraged to, implement an alternative form of regulation, including, but not limited to, price indexing, price regulation, cost indexing or price benchmarks, for noncompetitive and emerging competitive services provided by a telephone company. Any such alternative form of regulation shall be developed for, and tailored to, the individual company. A plan for such an alternative form of regulation may be filed by a telephone company or developed at the initiative of the [department] authority. Prior to approval by the [department] authority of any such plan, the noncompetitive and emerging competitive services provided by a telephone company shall continue to be regulated in accordance with the provisions of sections 16-19 and 16-19e. Upon approval by the [department] authority of any such plan, the services to which the plan applies shall be regulated in accordance with the provisions of the plan, and the provisions of sections 16-19 and 16-19e shall not apply to such services.

(b) Upon the filing of a proposed plan for alternative regulation by a telephone company, the [department] authority shall, after notice and

hearing, issue a decision in which it approves, modifies or denies the proposed plan. The [department] authority shall approve the proposed or modified plan only if it finds that such plan (1) includes a pricing methodology that reasonably ensures that customers and other telecommunications companies have access to the noncompetitive services of the telephone company at just and reasonable rates which reflect prudent and efficient management, and that such access is available on nondiscriminatory terms and conditions, (2) is designed to streamline, minimize the costs of and maximize the effectiveness of regulation for the telephone company, (3) encourages prudent infrastructure investment and improvements in productivity and service quality for noncompetitive services, (4) does not impede the continued development of competition for the noncompetitive services or disadvantage the provision of emerging competitive or competitive services by the telephone company, (5) ensures that the investment risk associated with the provision of competitive and emerging competitive services by the telephone company shall not be borne by customers of noncompetitive services, (6) notwithstanding the provisions of sections 16-19, 16-19e and 16-22 and subsection (a) of this section, includes a mechanism by which the [department] authority may monitor the earnings of the affected company over a monitoring period, (7) is in the public interest, and (8) is consistent with the goals set forth in section 16-247a.

(c) During the monitoring period of an approved plan for an alternative form of regulation, the telephone company shall use any earnings in excess of a ceiling approved by the [department] authority to offset the depreciation reserve deficiency of the company.

(d) Following the monitoring period, an approved plan for alternative regulation of a telephone company shall continue unless or until the [department] authority (1) changes the form of regulation pursuant to an application filed by the company, or (2) determines that the plan does not continue to meet the criteria set forth in subsection (b) of this section. Upon such change or determination, the [department] authority may order a different form of alternative

regulation consistent with the criteria set forth in subsection (b) of this section. If the **[**department**]** authority finds that competition has not developed or will not develop for certain services, the **[**department**]** authority may apply traditional cost-based rate of return regulation to those noncompetitive services.

(e) The **[**department**]** authority may modify a plan for an alternative form of regulation which it approved pursuant to this section and which is in effect if the **[**department**]** authority determines such modification is required due to previously unforeseen circumstances, including, but not limited to, allowing the company to recover the reasonable costs of security of assets, facilities and equipment, both existing and foreseeable, that are incurred solely for the purpose of responding to security needs associated with the terrorist attacks on September 11, 2001, and the continuing war on terrorism.

Sec. 11. Subsection (e) of section 16-256i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) The **[**department**]** authority shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions in this section.

Sec. 12. Subsection (f) of section 16-256i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) A telecommunications company, or its affiliate or authorized representative using telemarketing to initiate the sale of telecommunications services, which the **[**department**]** authority determines, after notice and opportunity for a hearing as provided in section 16-41, has failed to comply with the provisions of this section or section 16-256j shall pay to the state a civil penalty of not more than ten thousand dollars per violation.

Sec. 13. Section 16-280c of the general statutes is repealed and the

following is substituted in lieu thereof (*Effective from passage*):

Each federal safety standard applicable to pipeline facilities and the transportation of gas established under the provisions of the federal act, as the same are, from time to time, made effective, or any regulation adopted by the **[**department**]** authority pursuant to subsection (b) or (c) of section 16-280b shall be the standards of the state.

Sec. 14. Section 16-331a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section, "multichannel video programming distributor" means a multichannel video programming distributor, as defined in 47 CFR 76.1300, as from time to time amended, and includes an owner of an open video system, as defined in 47 CFR 76.1500, as from time to time amended.

(b) Each company or organization selected pursuant to subsection (c) of this section, in consultation with the franchise's advisory council, shall provide facilities, equipment, and technical and managerial support to enable the production of meaningful community access programming within its franchise area. Each company shall include all its community access channels in its basic service package. Each company or organization shall annually review its rules, regulations, policies and procedures governing the provision of community access programming. Such review shall include a period for public comment, a public meeting and consultation with the franchise's advisory council.

(c) If a community-based nonprofit organization in a franchise area desires to assume responsibility for community access operations, it shall, upon timely petition to the **[**department**]** authority, be granted intervenor status in a franchise proceeding held pursuant to this section. The **[**department**]** authority shall assign this responsibility to the most qualified community-based nonprofit organization or the company based on the following criteria: (1) The recommendations of

the advisory council and of the municipalities in the franchise area; (2) a review of the organization's or the company's performance in providing community access programming; (3) the operating plan submitted by the organization and the company for providing community access programming; (4) the experience in community access programming of the organization; (5) the organization's and the company's proposed budget, including expenses for salaries, consultants, attorneys, and other professionals; (6) the quality and quantity of the programming to be created, promoted or facilitated by the organization or the company; (7) a review of the organization's procedures to ensure compliance with federal and state law, including the regulations of Connecticut state agencies; and (8) any other criteria determined to be relevant by the **[**department**]** authority. If the **[**department**]** authority selects an organization to provide community access operations, the company shall provide financial and technical support to the organization in an amount to be determined by the **[**department**]** authority. On petition of the Office of Consumer Counsel or the franchise's advisory council or on its own motion, the **[**department**]** authority shall hold a hearing, with notice, on the ability of the organization to continue its responsibility for community access operations. In its decision following such a hearing, the **[**department**]** authority may reassign the responsibility for community access operations to another organization or the company in accordance with the provisions of this subsection.

(d) Each company or organization shall conduct outreach programs and promote its community access services. Such outreach and promotion may include, but not be limited to (1) broadcasting cross-channel video announcements, (2) distributing information throughout the franchise area and not solely to its subscribers, (3) including community access information in its regular marketing publications, (4) broadcasting character-generated text messages or video announcements on barker or access channels, (5) making speaking engagements, (6) holding open receptions at its community access facilities, and (7) in multitown franchise areas, encouraging the formation and development of local community access studios

operated by volunteers or nonprofit operating groups.

(e) Each company or organization shall adopt for its community access programming a scheduling policy which encourages programming diversity. Said scheduling policy shall include (1) limiting a program, except instructional access and governmental access programming, to thirteen weeks in any one time slot when a producer of another program requests the same time slot, (2) procedures for resolving program scheduling conflicts, and (3) other measures which the company or organization deems appropriate. A company or organization may consider the availability of a substantially similar time slot when making community access programming scheduling decisions.

(f) In the case of any initial, transfer or renewal franchise proceeding held on or after October 1, 1990, the **[**department**]** authority may, on its own initiative, in the first six months of the second, fifth, eighth and eleventh years of the franchise term, review and evaluate the company's or the organization's provision of community access programming. The **[**department**]** authority shall conduct such review or evaluation in any such proceeding held on or after October 1, 1990, if the Consumer Counsel or any interested party petitions the **[**department**]** authority for such a review during the first six months of the review year. During any such review year, if an organization desires to provide community access operations it shall petition the **[**department**]** authority and the **[**department**]** authority shall follow the procedures and standards described in subsection (c) of this section in determining whether to assign to the organization the responsibility to provide such operations. No community access programming produced using the facilities or staff of an organization or company providing community access operations shall be utilized for commercial purposes without express prior written agreement between the producer of such programming and the organization or company providing community access operations the facilities or staff of which were used in the production of the programming. Such an agreement may include, without limitation, a provision regarding the

producer and the company or organization sharing any profit realized from such programming so utilized. An organization providing community access operations shall consult with the company in the franchise area prior to making such an agreement.

(g) No organization or company providing community access operations shall exercise editorial control over such programming, except as to programming that is obscene and except as otherwise allowed by applicable state and federal law. This subsection shall not be construed to prohibit such organization or company from limiting the hours during which adult programs may be aired. Such organization or company may consult with the advisory council in determining what constitutes an adult program for purposes of this subsection.

(h) Upon the request of the Office of Consumer Counsel or the franchise's advisory council, and for good cause shown the **[**department**]** authority shall require an organization responsible for community access operations to have an independent audit conducted at the expense of the organization. For purposes of this subsection, "good cause" may include, but not be limited to, the failure or refusal of such organization (1) to account for and reimburse the community access programming budget for its commercial use of community access programming facilities, equipment or staff, or for the allocation of such facilities, equipment or staff to functions not directly related to the community access operations of the franchise, (2) to carry over unexpended community access programming budget accounts at the end of each fiscal year, (3) to properly maintain community access programming facilities or equipment in good repair, or (4) to plan for the replacement of community access programming equipment made obsolete by technological advances. In response to any such request, the **[**department**]** authority shall state, in writing, the reasons for its determination.

(i) Each company and nonprofit organization providing community access operations shall report annually to the **[**department**]** authority

on or before February fifteenth. The [department] authority shall adopt regulations, in accordance with the provisions of chapter 54, to specify the information which shall be required in such report. Such information shall be necessary for the [department] authority to carry out the provisions of this section.

(j) The advisory council shall review all community access programming of a company or organization within the franchise area which programming has been the subject of a complaint.

(k) The [department] authority shall establish the amount that the company or organization responsible for community access operations shall receive for such operations from subscribers and from multichannel video programming distributors. The amount shall be five dollars per subscriber per year, adjusted annually by a percentage reflecting the increase or decrease of the consumer price index for the preceding calendar year, provided the [department] authority may increase or decrease the amount by not more than forty per cent of said amount for the subscribers and all multichannel video programming distributors within a franchise area after considering (1) the criteria set forth in subsection (c) of this section, (2) the level of public interest in community access operations in the franchise area, (3) the level of community need for educational access programming, (4) the level and breadth of participation in community access operations, (5) the adequacy of existing facilities, equipment and training programs to meet the current and future needs of the franchise area, and (6) any other factors determined to be relevant by the [department] authority. Prior to increasing or decreasing said amount, the [department] authority shall give notice and opportunity for a hearing to the company or multichannel video programming distributor and, where applicable, the organization responsible for community access programming. The amount shall be assessed once each year for each end user premises connected to an open video system, irrespective of the number of multichannel video programming distributors providing programming over the open video system. When the [department] authority issues, transfers or renews a certificate of

public convenience and necessity to operate a community antenna television system, the **[**department**]** authority shall include in the franchise agreement the amount that the company or organization responsible for community access operations shall receive for such operations from subscribers. The **[**department**]** authority shall conduct a proceeding to establish the amount that the company or organization responsible for community access operations shall receive for such operations from multichannel video programming distributors and the method of payment of said amount. The **[**department**]** authority shall adopt regulations in accordance with chapter 54 to implement the provisions of this subsection.

(l) An organization assigned responsibility for community access operations which organization ceases to provide such operations shall transfer its assets to the successor organization assigned such responsibility or, if no successor organization is assigned such responsibility, to another nonprofit organization within the franchise area selected by the **[**department**]** authority.

(m) On petition or its own motion, the **[**department**]** authority shall determine whether a franchise area is subject to effective competition, as defined in 47 USC 543, as from time to time amended. Upon a determination that a franchise area is subject to effective competition, the provisions of this section shall apply to multichannel video programming distributors operating in the franchise area, provided (1) where multichannel video programming distributors provide programming over a single open video system, the provisions of this section shall apply jointly and not separately to all such distributors providing programming on the same open video system, and (2) the provisions of subsection (k) of this section shall apply to multichannel video programming distributors whether or not such distributors operate in a franchise area subject to such effective competition.

(n) No community antenna television company or nonprofit organization providing community access operations shall refuse to engage in good faith negotiation regarding interconnection of such

operations with other community antenna television companies serving the same area. No school or facility owned or leased by a municipal government that possesses community access operations equipment shall unreasonably deny interconnection with or the use of such equipment to any such company or nonprofit organization. At the request of such a company or nonprofit organization providing community access operations, the **[**department**]** authority may facilitate the negotiation between such company or organization and any other community antenna television company regarding interconnection of community access operations.

(o) Each company or organization shall consult with its advisory council in the formation of a community access programming policy, the adoption of the community access programming budget and the allocation of capital equipment and community access programming resources.

Sec. 15. Section 16-333k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Each community antenna television system shall: (1) Operate a business office in the franchise area or in an immediately adjacent franchise area if approved by the **[**department**]** authority that shall be open during normal business hours, (2) operate sufficient telephone lines, including a toll-free number or any other free calling option, as approved by the **[**department**]** authority, staffed by a company customer service representative during normal business hours for any community antenna television system, having less than thirty thousand customers, and from 9 a.m. until 11 p.m. Monday through Friday, and from 9 a.m. until 1 p.m. Saturday for any community antenna television system, having more than thirty thousand customers, to receive subscriber inquiries, complaints, repair requests, requests for billing adjustments and other service-related requests, (3) connect each such call to a company customer service representative within two minutes during normal business hours, unless there is an emergency in which case the customer should receive a recorded

message describing the problem and offering assistance, (4) provide for an answering service to receive such inquiries, complaints, and requests during such times when the company is not required to staff a toll-free number or any other free calling option, as approved by the **[**department**]** authority, (5) have sufficient personnel on duty as required by subdivision (2) of this section to receive subscriber inquiries, complaints, repair requests, requests for billing adjustments and other service-related requests and to respond to all such inquiries, complaints and requests not later than the close of the next business day after receipt thereof, except as provided by section 16-333i, (6) keep adequate records of all complaints and their final disposition, which shall be in such form as the **[**department**]** authority prescribes, and (7) follow the written procedures for resolving subscriber complaints and billing disputes, in accordance with subsection (d) of section 16-333*l* and such additional requirements as the **[**department**]** authority shall prescribe, and provide a copy of such procedures to each subscriber at the time of the initial subscription and at least annually thereafter.

Sec. 16. Section 16-350 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Any permit issued by a public agency for excavation, demolition or discharge of explosives shall require compliance with this chapter. No such permit shall be issued by any public agency unless such public agency receives satisfactory evidence from the person, public agency or public utility seeking such permit that the requirements of this chapter have been met. Such evidence shall be obtained from the central clearinghouse and shall be in such form as the **[**department**]** authority may prescribe by regulations pursuant to section 16-357.

Sec. 17. Section 16-354 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

A person, public agency or public utility responsible for excavating, discharging explosives or demolition shall exercise reasonable care when working in proximity to the underground facilities of any public

utility and shall comply with such safety standards and other requirements as the **[**department**]** authority shall prescribe by regulation pursuant to section 16-357. If the facilities are likely to be exposed, such support shall be provided as may be reasonably necessary for protection of the facilities. If gas facilities are likely to be exposed, only hand digging shall be employed.

Sec. 18. Subsection (c) of section 16a-46e of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) No person shall receive a rebate pursuant to this section for a furnace or boiler replacement if such person has received a monetary grant for the same furnace or boiler replacement under **[**any program administered by**]** any other state or federal grant program that pays the full cost of furnace or boiler replacement. A person using a state or federal low interest loan program to pay for the cost of furnace or boiler replacement may be eligible for a rebate pursuant to this section. In no event shall a rebate exceed the total expenditures for such furnace or boiler replacement.

Sec. 19. Section 22-11e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be an Interagency Aquaculture Coordinating Committee comprised of the Departments of Agriculture, Energy and Environmental Protection, and Economic and Community Development to provide for the development and enhancement of aquaculture in this state. The Commissioner of Agriculture shall serve as chairperson of said committee and shall convene the committee as often as he deems necessary.

(b) On or before October 1, 1995, the Interagency Aquaculture Coordinating Committee shall develop a comprehensive strategy for the development of aquaculture in this state.

| This act shall take effect as follows and shall amend the following sections: | | |
|---|---|---|
| Section 1 | *from passage* | 16-19p |
| Sec. 2 | *from passage* | 16-19v |
| Sec. 3 | *from passage* | 16-19hh |
| Sec. 4 | *from passage* | 16-243e |
| Sec. 5 | *from passage* | 16-243*l* |
| Sec. 6 | *from passage* | 16-245e(a)(20) |
| Sec. 7 | *from passage* | 16-245f(b) |
| Sec. 8 | *from passage* | 16-247a |
| Sec. 9 | *from passage* | 16-247i |
| Sec. 10 | *from passage* | 16-247k |
| Sec. 11 | *from passage* | 16-256i(e) |
| Sec. 12 | *from passage* | 16-256i(f) |
| Sec. 13 | *from passage* | 16-280c |
| Sec. 14 | *from passage* | 16-331a |
| Sec. 15 | *from passage* | 16-333k |
| Sec. 16 | *from passage* | 16-350 |
| Sec. 17 | *from passage* | 16-354 |
| Sec. 18 | *from passage* | 16a-46e(c) |
| Sec. 19 | *from passage* | 22-11e |

***Statement of Legislative Commissioners:***
In sections 8(a), 8(b) and 9(a), the phrase "as amended by this act" was added for clarity.

***ET*** *Joint Favorable Subst.-LCO*

## *OFA Fiscal Note*

***State Impact:*** None

***Municipal Impact:*** None

### *Explanation*

The bill, which makes technical changes and conforms statute to current practice, has no fiscal impact on the state or municipalities.

## *The Out Years*

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis**

**sSB 228**

***AN ACT CONCERNING TECHNICAL REVISIONS TO ENERGY AND TECHNOLOGY STATUTES.***

**SUMMARY:**

This bill transfers various responsibilities from the Department of Energy and Environmental Protection (DEEP) to the Public Utility Regulatory Authority (PURA) in the department. It also makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

**MINOR CHANGES**

PA 11-80 renamed the PubLic Utility Control Authority PURA and placed it in DEEP, which the act created.

The bill requires PURA, rather than DEEP, to:

1. review nuclear power plant decommissioning plans and order changes to them if necessary;
2. implement flexible rates and take other steps to promote economic development;
3. implement the telecommunications deregulation law passed in 1994 in accordance with statutory goals;
4. reclassify telecommunications services as to their degree of competitiveness, which affects how their rates are set;
5. report to the Energy and Technology Committee annually on the status of telecommunications services and regulation;
6. implement alternative forms of utility rate regulation for

telecommunications services that are not fully competitive;

7. determine whether a telecommunications company has engaged in prohibited telemarketing practices;

8. (a) require a nonprofit organization responsible for community (public) access TV operations to undergo an audit, (b) set the amount charged to cable TV subscribes to support community access TV, and (c) receive reports by non-profit organizations and cable TV companies on community access TV;

9. prescribe the complaint form for cable TV subscribers; and

10. establish additional cable TV complaint and dispute resolution procedures.

The bill allows PURA, rather than DEEP, to authorize a cable TV company to (1) operate a business office in an area immediately adjacent to its franchise area and (2) use a free calling option other than a toll-free number for its customer service office.

## COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable
Yea 21 Nay 0 (03/09/2012)